

ORDINANCE 91.46

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
TEMPE, ARIZONA, PROHIBITING THE WASTING OF  
WATER.

WHEREAS, water is a precious natural resource; and

WHEREAS, inefficient use and future increases in water demand could render the  
available water supply inadequate; and

WHEREAS, it is necessary to protect, preserve and extend the water resources available  
to the City of Tempe; and

WHEREAS, the City of Tempe finds and determines that the adoption of water  
conservation rules and regulations is necessary to (1) protect the health, safety and welfare of  
the citizens of the City; (2) assure the maximum beneficial use of the water supplies of the City;  
and (3) ensure that there will be sufficient water supplies to meet the needs of the City; and

WHEREAS, the Water Conservation Plan recommends the development of regulations  
to discourage the wasting of water; and

WHEREAS, the City Council of the City of Tempe has adopted the Water Conservation  
Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY  
OF TEMPE, ARIZONA, that Chapter 33 of Tempe City Code be amended by adding the  
following Article:



**Sec. 33-112 to 33-119 Reserved**

## **ARTICLE VI. WATER WASTING**

### **DIVISION 1. GENERAL**

**Sec. 33-120.** This Ordinance is not intended to regulate or prevent the beneficial use of water on property within the City of Tempe service area. It is intended to prevent and discourage the wasting of water within the City of Tempe service area.

**Sec. 33.121.** No person shall waste any water supplied within the City of Tempe service area. In general, water is wasted if it is not used beneficially. It is hereby determined that the waste of water specifically includes but is not limited to the following:

- (a) Water running off a landscaped area to another area where it is not used beneficially, such as to a street, sidewalk, gutter, alley, public utility easement or parking area paved or unpaved;
- (b) Washing vehicles in a manner that uses excess water beyond that reasonably necessary for washing and rinsing;
- (c) The hosing down of driveways, sidewalks and other hardscape should be limited and accomplished in a such a way that the water will run off into other landscaped areas, but in no event, in a manner that uses excess water beyond that reasonably necessary for washing and rinsing;
- (d) Any use of water in excess of that reasonably necessary to accomplish the intended task.

**Sec.33-122.** It is determined by the City Council that a major cause of the waste of water within the City of Tempe service area is the failure to properly maintain outdoor watering systems. Specific examples of such failure to maintain include but are not limited to the



following:

- (a) Damaged or missing spray heads;
- (b) Damaged or missing bubbler heads;
- (c) Damaged or missing drip irrigation lines;
- (d) Failure to properly maintain berms, laterals and pipes for urban irrigation; and
- (e) Failure to properly maintain automatic timing systems on landscape watering.

**Sec.33.123.** It is hereby prohibited for anyone to permit the excess use, loss or escape of water through breaks, leaks or malfunction in the water user's plumbing or distribution facilities for any period of time after such escape of water should have been reasonably discovered and corrected.

## **DIVISION II. APPEALS AND EXCEPTIONS**

**Sec. 33-124. Application for Exemption.** The Public Works Director or his designee may grant an exemption for the uses of water otherwise prohibited hereby if he finds and determines that compliance with this ordinance will be detrimental to the health, safety and welfare of the public. The Public Works Director or his designee may grant such exception only upon an application in writing which sets forth the specific facts and circumstances which applicant claims to justify the granting of a variance. Upon granting any such exception, the Public Works Director or his designee may impose any conditions he determines to be reasonable and proper. The conditions shall include, at a minimum, a water conservation audit of the applicant's facility.



### **DIVISION III. ENFORCEMENT.**

**Sec. 33.125. First Violation.** The City shall issue a verbal notice for the first violation and provide educational materials on water conservation including a copy of this Ordinance to the water user violating the provisions of this Ordinance. A reasonable time to correct the violation will be permitted but in no case will a second violation (for the same matter) be declared sooner than fourteen (14) days after the first notice, however, additional contacts and verbal notifications may occur prior to a second violation being determined.

**Sec. 33.126. Second Violation (for the same matter).** The City shall issue a written notice to the water user for a second violation of this Ordinance within a twelve (12) month period, and require a water audit of the facility. The water conservation audit will result in a written compliance schedule within which the water user is to comply with the provisions of this Ordinance.

**Sec. 33-127. Third Violation (for the same matter).** (a) The City shall issue a written notice to the water user for a third violation of this Ordinance within a twelve (12) month period of issuance of a notice of first violation, and impose a surcharge on the next billing, in an amount equal to twenty-five percent (25%) of the average monthly bill for the previous six (6) months for the meter through which the wasted water was supplied. The surcharge shall be added to the water billing for that meter and must be paid; nonpayment of any portion of water users monthly bill may result in termination of water service.

(b) An additional written compliance schedule within which the water user is to comply with the provisions of this Ordinance shall be developed.

**Sec. 33-128. Fourth Violation.** (a) The City shall issue a written notice to the



water user for a fourth violation of this Ordinance within a twelve (12) month period of the issuance of notice of first violation, and impose a surcharge on the next monthly billing in an amount equal to fifty percent (50%) of the average water bill for the previous six (6) months for the meter through which the wasted water was supplied. The surcharge shall be added to the water billing for that meter through which the water was wasted and must be paid; nonpayment of any portion of the water bill may result in termination of water service.

(b) An additional written compliance schedule within which the water user shall comply with the provisions of this Ordinance shall be developed.

**33-129. Subsequent Violations (for the same matter) after the Fourth Violation; Discontinuance of Service.** For any violation subsequent to the fourth violation of this Ordinance within twenty-four (24) months of the issuance of notice of first violation, a penalty surcharge of one month average billing for the previous six (6) months for the meter through which the wasted water was supplied shall be imposed. The City shall discontinue water service to that customer at the premises or to the meter where the violations occurred. The charge for restoration of normal service shall be 2 1/2 times the existing City rate for activating water service. Such restoration of service shall not be made until the Public Works Director or his designee has determined that the water user has provided reasonable assurances that future violations of this Ordinance by such user will not occur. In addition he may require a security deposit.

#### **DIVISION IV. NOTICE.**

**Sec. 33-130. Verbal Notice.** For a first violation, verbal notice of violation shall be given to the water user in person or by telephone. Educational materials on water



conservation and a copy of this Ordinance, will be delivered in person or sent by regular mail.

The verbal notice will:

(a) Inform the water user of nature of the violation as listed in Secs. 33-121a - d, Secs. 33-122a - e, and Sec. 33-123.

(b) Inform the water user that the Public Works Director or his designee will continue to monitor for compliance.

(c) Inform the water user that failure to correct the problem within 14 days will result in a second notice of violation (written) being issued.

**Sec. 33-131. Written Notice.** A written notice shall be issued for each violation subsequent to the first. The second notice shall be delivered in person or by regular mail to the water user. All subsequent notices will be delivered in person or by certified mail to the person identified on the account for the meter through which the wasted water was supplied. The notice will:

(a) Inform the water user that a second, third, fourth or subsequent violation of Secs. 33-121a - d, Secs. 33-122a - e, and Sec. 33-123., above has occurred.

(b) Specify when the previous violation(s) (of the same matter) occurred.

(c) Inform the water user of the requirement for a water audit and the development of a compliance schedule indicating when required measures will be completed.

(d) Inform the water user that failure to correct the problem within the time limit provided for in the compliance schedule will result in a another notice of violation.

(e) The notice shall contain, in addition to the facts of the violation, a statement of the possible penalties for each violation and a statement informing the customer of his right



to a hearing on the violation. The effective date of violation shall be the date of issuance of the notice of violation.

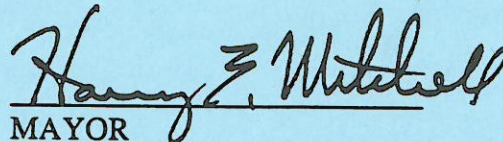
DIVISION V. HEARING.

**Sec. 33-132. Hearing.** Any person against whom a penalty is levied pursuant to this section shall have a right to a hearing, to the Public Works Director or his designee.

**Sec. 33-133. Reservation of Rights.** The rights of the City pursuant to this Ordinance are cumulative to any other right or ordinance of the City of Tempe in relation to the water user. All monies collected by the City of Tempe pursuant to any of the penalty provisions of this Ordinance shall be deposited in the Water Enterprise Fund.

**Sec. 33-134. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

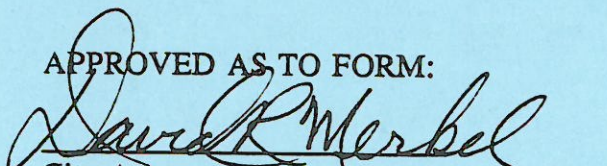
PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,  
ARIZONA, this 23rd day of Jan., 1992.

  
MAYOR

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
City Attorney